

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF TEXAS  
ABILENE DIVISION

IN RE:	§	NO. 11-10043-rlj
	§	
JAMES FRANKLIN MILLS	§	
JULIANE FLIEHER MILLS	§	
DEBTORS	§	
	§	(CHAPTER 13)
WELLS FARGO BANK, N.A	§	
	§	
MOVANT	§	
	§	Preliminary Hearing Scheduled
VS.	§	for February 5, 2014 at 11:00 a.m.
JAMES FRANKLIN MILLS	§	
JULIANE FLIEHER MILLS	§	
RESPONDENTS	§	
	§	
WALTER OCHESKEY	§	
TRUSTEE	§	

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**MOTION OF WELLS FARGO BANK, N.A.  
FOR RELIEF FROM AUTOMATIC STAY**

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**IF YOU WANT A HEARING, YOU MUST REQUEST ONE IN WRITING AND YOU MUST RESPOND TO EACH PARAGRAPH OF THIS MOTION, OBJECTING SPECIFICALLY. YOU MUST FILE YOUR RESPONSE WITH THE CLERK OF THE BANKRUPTCY COURT WITHIN FIFTEEN DAYS FROM THE DATE THIS NOTICE WAS MAILED TO YOU AND GIVE A COPY TO THE PERSON WHO SENT YOU THIS NOTICE. OTHERWISE, THE COURT MAY TREAT THIS MOTION AS UNOPPOSED AND GRANT THE RELIEF SOUGHT.**

**TO THE HONORABLE JUDGE OF SAID COURT:**

Movant, WELLS FARGO BANK, N.A. a secured creditor in the captioned Chapter 13 proceeding, files its Motion for Relief from Automatic Stay against JAMES FRANKLIN MILLS

and JULIANE FLIEHER MILLS, Debtors and Respondents herein, and WALTER OCHESKEY, Trustee, and would respectfully show the Court as follows:

1. JAMES FRANKLIN MILLS and JULIANE FLIEHER MILLS, Debtors/Respondents, filed their Petition under Chapter 13 of the Bankruptcy Code on February 10, 2011. WALTER OCHESKEY was appointed Trustee in this case.

2. Movant is a creditor of the Debtors holding a secured claim in an amount which is no less than \$7,262.50. Movant has timely filed its Proof of Claim.

3. The obligation owed by Debtors is evidenced by a Motor Vehicle Retail Installment Sales Contract (hereinafter "Contract"), marked as Exhibit "A" and attached hereto and made a part hereof by reference. The vehicle secured by said Contract is more specifically described in Exhibit "B" which is attached hereto and made a part hereof by reference.

4. Debtors has failed to make payments, despite the terms of the Contract, and as such, a continuation of the Automatic Stay of 11 U.S.C. § 362(a) will work real and irreparable harm to Movant and will deprive Movant of the adequate protection to which it is entitled under 11 U.S.C. § 361 and § 362 for the following reasons, among others:

- (a) Debtors/Respondents executed a Contract with Movant. Movant has a security interest in the Vehicle pursuant to the Contract. Movant is listed as a lienholder on the Texas Certificate of Title;
- (b) Debtors' account is delinquent from August 1, 2013.

Nonpayment is Section 362 (d) (1) "Cause"

5. The unexcused failure of Debtors to make the monthly note payments constitutes sufficient "cause" under 11 U.S.C. Section 362 (d) (1) to lift the automatic stay to permit Movant to pursue its remedies under its Contract and such other remedies as are available.

6. If Movant is not permitted to foreclose its security interest on said Vehicle, Movant will be in a position to suffer irreparable injury, loss, and damage.

7. Movant lacks adequate protection of its interest in the Vehicle, and therefore seeks to terminate the stay of 11 U.S.C. § 362(d)(1).

WHEREFORE, PREMISES CONSIDERED, Movant prays for an Order granting Movant relief from the automatic stay of 11 U.S.C. Section 362 (a) of the Bankruptcy Code and to grant to Movant all other relief, both legal and equitable, to which it may show itself entitled.

**CERTIFICATE OF CONFERENCE**

On December 19, 2013, Counsel for WELLS FARGO BANK, N.A. contacted the office of the attorney for JAMES FRANKLIN MILLS and JULIANE FLIEHER MILLS concerning the motion for relief from the automatic stay. The motion is unopposed.

Respectfully submitted,

SCHEINTHAL & KOUTS, LLP

/s/Alan R. Scheinthal

Attorney at Law

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**ATTORNEY FOR WELLS FARGO  
BANK, N.A.**

**CERTIFICATE OF SERVICE**

I certify that on December 20, 2013 a true and correct copy of the above and foregoing was served upon the following parties via electronic means as listed on the court's EFC noticing system or by first class mail.

/s/ Alan R. Scheinthal

**DEBTORSS/RESPONDENTSS:**

James Franklin Mills  
Juliane Flicher Mills  
210 Brown Ave.  
Tuscola, Texas 79562

**ATTORNEY OF RECORD  
FOR DEBTORSS:**

Pamela Jean Chaney  
402 Cypress, Suite 310  
Abilene, Texas 79601

**TRUSTEE:**

Walter O'Cheskey  
6308 Iola Ave.  
Lubbock, Texas 79424

**U. S. TRUSTEE:**

1100 Commerce Street, Room 976  
Dallas, TX 75242-1496

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**EXHIBITS**

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A - Contract

B - Title